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60TH CONGRESS, 2D SESSION

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INSPECTION OF NAVAL STORES

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HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE  
COMMERCE, UNITED STATES SENATE

CONSISTING OF

SENATORS CLAPP, CRANE, AND TILLMAN

ON THE BILL

S. 7867

FOR PREVENTING THE MANUFACTURE, SALE, OR TRANS-  
PORTATION OF ADULTERATED, MISBRANDED, OR  
FALSELY GRADED NAVAL STORES, AND  
FOR OTHER PURPOSES

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FRIDAY, JANUARY 29, 1909

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Series No. 14

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WASHINGTON  
GOVERNMENT PRINTING OFFICE

1909

SIXTIETH CONGRESS.  
INTERSTATE COMMERCE COMMITTEE.

SENATE OF THE UNITED STATES.

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II

U S S  
MAR 10 1917



## INSPECTION OF NAVAL STORES.

COMMITTEE ON INTERSTATE COMMERCE,  
UNITED STATES SENATE,  
*January 29, 1909.*

The subcommittee met at 10.30 o'clock a. m.

Present: Senators Clapp (chairman) and Crane.

Senator CLAPP. Gentlemen, we will continue arguments this morning on the bill, Senate 7867, for preventing the manufacture, sale, or transportation of adulterated, misbranded, or falsely graded naval stores, and for other purposes. Senator Bacon is here and we will hear him in argument.

### ARGUMENT OF SENATOR A. O. BACON, OF GEORGIA.

Senator BACON. Mr. Chairman and gentlemen, I have not very much to say. I want to give you a brief outline of my objections to this bill, on account of which I am utterly and radically opposed to it. I want to say, in the first place, that in one sense it is a local question, although not altogether so, as I shall point out a little later. And so far as it is a local question it ought, I think, to be controlled by the wishes of those who represent that local question.

It so happens that a very large majority—not a small majority, but a large majority—of the Senators and Representatives in the turpentine-producing district are radically opposed to this bill.

Senators Simmons and Overman, of North Carolina, are both opposed to the bill. Senator Gary, of South Carolina, is opposed to it. I will not speak for Senator Tillman because he is a member of the committee. Senator Clay and I are both opposed to it. Senator Milton, of Florida, is opposed to it, I think. He said he certainly would be if his colleague was not in favor of it. I do not know how the Alabama Senators stand; I have not heard either one of them say. Senator Money is against the bill. Senator McLaurin also, I understand, is against it. Mr. Foster is here to speak for himself.

Mr. FOSTER. I am on the committee.

Senator BACON. Yes, sir.

Senator TALIAFERRO. I suppose you feel authorized to speak for those Senators?

Senator BACON. No, I am not authorized to speak for them except to say that they have said to me that they are opposed to the bill. I can make that statement. I am not speaking from hearsay. Senator McLaurin, I will do him the justice to say, spoke guardedly, because he is a member of the committee. He did not express himself in the same way that the other Senators, not members of the committee, expressed themselves. But Senator McLaurin's expression was not favorable to the bill.

The same thing is true of the Representatives. The North Carolina Representatives I have not seen personally, but I am informed they are against the bill. I have not seen the South Carolina Representatives and can not speak about them. I know there are two districts in Georgia only interested in turpentine production, and the Representatives from both of those districts are against the proposed bill. I do not know about the Florida Representatives, how they stand; nor do I know how the Alabama Representatives stand. I have seen Mr. Bowers, however, who represents the turpentine district in Mississippi, and I can say that he is radically opposed to the bill. So that from that standpoint, I think that is a very strong argument against the bill. There is no question about the fact that the Senators and Representatives representing the turpentine districts are largely opposed to it.

It is not altogether a local question from the fact the bill extends the power of these inspectors beyond the locality in which turpentine and resin are produced, and gives them the power of inspection and breaking open trains and packages anywhere that they are found in the United States. So, to that extent it is not a local question.

You might say that the consumers of it have an interest which removes it outside of the domain of a strictly local question.

That, of course, does not go to the merits of the bill. I am simply stating the fact that those who are mainly interested are strongly opposed to the bill. I am strongly opposed to the bill for various reasons. In the first place, I am not in favor of taking away from the States the absolute control of their internal affairs, and there is no argument that can be used in favor of this inspection, this law, which can not be used in favor of the inspection of every other product that enters into interstate commerce—not one; there is not a single one of them. There may be some things in which the reasons are stronger than in others, but every reason that can be urged in favor of the exercise of this power in the case of the naval-stores products can be urged in the case of cotton, corn, wheat, lumber, or anything else that is produced in the way of agriculture or mineral products, and also manufactured products.

Senator CLAPP. You know there is a bill reported, that isn't on the Senate Calendar, for federal inspection of wheat?

Senator BACON. Very well. That just emphasizes my argument. I am not particularly interested in wheat. If your gentlemen in the wheat country want that, it is all right with me; although I should oppose it myself. I should vote against such a measure, because I do not believe in turning over to the Federal Government every function that can possibly be dragged in under the interstate-commerce clause. If so, you could absolutely take away from the States the control of all their internal affairs.

The inspection of naval stores is not a matter which can not be accomplished without the passage of this law. We have in our State now as complete a law, so far as providing for inspection is concerned, as this proposed law would be. It is not as drastic in its remedies. It does not propose to send everybody to the penitentiary who happens to make a violation of some of the provisions of the law. But I am going to call the attention of the committee to that Georgia state law. It is in this pamphlet I hold in my hand. This has already

been presented to you, but I am going to run over briefly the outlines of the law.

► This has no side notes and so it is hard to run over it as rapidly as I otherwise would do.

This is a statute passed by the legislature of Georgia, and has been on the statute books of that State now for over five years.

► The first section simply provides that the act shall be known as the "Pure spirits of turpentine act."

In the second section it provides for definitions of the various products of spirits of turpentine and of resin and so on. So that by its test it can be determined what the product is, and whether it is a pure product and whether it is an adulterated product.

In the third section it is provided—

"That every person, firm, or corporation who shall hereafter produce or manufacture for sale or shipment, or for any other than for his own use or consumption, any spirits of turpentine in the State of Georgia, shall plainly mark or write in letters not less than one inch square on the outside of the barrel containing the same, the true nature of the contents of such barrel in such manner as to whether the same contains pure spirits of turpentine, wood spirits of turpentine, adulterated spirits of turpentine, or adulterated wood spirits of turpentine, as defined by the provisions of this act. It shall be unlawful for any person, firm, or corporation to manufacture or produce any spirits of turpentine or wood spirits of turpentine for sale, consignment, or shipment, or to sell, ship, consign, or in any manner dispose of the same, whether pure or adulterated, or of any other kind whatsoever, without plainly marking or writing in the manner aforesaid, upon the outside of the barrel containing the same, the words 'pure spirits of turpentine' or 'wood spirits of turpentine' or 'adulterated spirits of turpentine' or 'adulterated wood spirits of turpentine,' as the case may be, and any person who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as prescribed in section 1039 of the code."

I will show that the section of the code to which that refers is a section providing a penalty of a general nature for that class of offenses known as the misdemeanor offense, which is less than a felony, and is one in which the penalty is fine and imprisonment, but not imprisonment in the penitentiary, simply imprisonment in the common jail of the county, either or both. That is my recollection of it. It has been a good while since I read it over carefully, but I think it provides either or both in the discretion of the court.

Then, I will go to the next section.

Senator TALIAFERRO. Before you leave that section, would you object to my asking you one or two questions about it?

Senator BACON. No, sir.

Senator TALIAFERRO. You are merely reading from the law?

Senator BACON. Yes.

Senator TALIAFERRO. Do you know anything about the practical management of this business?

Mr. BACON. I do not. I have seen a great deal of it. I was born and raised in the country where the business is carried on, in a part of the State where the industry prevails.

Senator TALIAFERRO. Would it be a surprise to you if it should be shown that the provision for the marking of those barrels in the way



you say the law designates they shall be marked has never been complied with?

Senator BACON. If it has not been complied with, then they do not think enough of it to bring it to the attention of the courts.

Senator TALIAFERRO. I do not assert that it has not been complied with, but I think I can show that that is a fact.

Senator BACON. Well, suppose you can.

Senator TALIAFERRO. Well, if I show the fact, it will show the law is not effective and is ignored.

Senator BACON. Well, suppose you can show that the law against murder in the State of Florida, whenever anyone is lynched, is not complied with; would you therefore say that the United States should enact a law to correct that evil?

Senator TALIAFERRO. It depends entirely on the extent to which it was carried.

Senator BACON. Suppose it was a great evil; suppose there was a lynching every week.

Senator TALIAFERRO. We are discussing naval stores.

Senator BACON. I understand, but I am illustrating the point. Does the fact that the State does not enforce a law justify the United States stepping in and enacting a statute to correct the evil; or shall we try to correct the evil in the State by stimulating a proper desire and regard for the enforcement of the law; which would you have? Well, I will not stop to argue that further. That is my reply to your suggestion, though.

Senator CLAPP. Well, Senator Bacon, if the failure to comply with the law did operate to work a fraud generally on people outside of the State, and as to those outside of the State the enforcement of a law for their protection was a federal matter, might it not then justify the Federal Government in enacting a law?

Senator BACON. But you are not seeking simply to enforce the law outside the State; you are talking about enforcing a law inside the State, and the very same law that we have already got here.

Senator CLAPP. Yes; but for the protection of those outside, I mean. This resin is used very largely outside of Georgia.

Senator BACON. But is it a fact that the people outside of Georgia who are engaged in using resin tell the grade of the resin by looking at it themselves?

Senator CLAPP. I do not say they can not, but I say if the failure to enforce a law locally by the state authorities works to the injury of the general public outside of the State, and is a subject-matter under the Constitution—

Senator BACON. I say that would absolutely depend on the question whether interference in the domestic affairs of the State was the only way in which the rights of the people outside of the State could be protected. If the people outside of the State have a right to protect themselves from the fraud, every State has a right not only to pass a law as to the inspection of the product, but they have the right to pass a law as to the inspection of it after it goes into their State, to see that improper grades of resin and turpentine are not sold there.

Senator CLAPP. That would apply to the entire subject of inspection, would it not? Food and grain and everything else?

Senator BACON. Of course, if you are going to take that as a general law and apply it to all products—every agricultural product, every mineral product, every manufacturing product—then you

absolutely are going to take away from the States their right to control their internal affairs in every way, because their internal affairs are made up of dealings with mineral products and agricultural products and manufactured products, and when you add transportation to it you have the entire round, almost, of all industries. Why should you pick out one? If you are going to apply it in every case where you say the failure of a State to properly grade the purity of its products must be followed by a federal statute to guard the balance of the country against the impure products, then you will have to deal not only with the question of turpentine or wheat or cotton or corn, but you will have the question of the manufacture of cloth, the weaving of cotton, how much filling is put in for the purpose of imposing upon the public to make it appear that it is a pure manufactured product, whereas in fact it is washed and it will come to pieces. Are you going to have a federal statute on all those subjects?

Senator CLAPP. I have not been in favor of enacting federal statutes to cover all these things, but the point I was making is that if the Federal Government should not interfere because the people of the State can protect themselves, then that principle would apply to one product as well as to another.

Senator BACON. Of course it will, and that is the argument I am making; that if you are going to enter upon this field there is no end to it. I can take up any product—agricultural products, mineral products, manufactured products, any one of them—and I can show how not only the possibility of fraud exists in those products, but how when those products go into another State people are liable to be imposed upon by those frauds. But that is no reason why the Government of the United States shall undertake to say that it will supervise every agricultural product and every mineral product, and every manufactured product in a State—because it may be adulterated or it may be fraudulently manufactured, and therefore it may impose upon the citizens of another State. That is the argument.

Senator TALIAFERRO. Not at all.

Senator BACON. I think it is.

Senator TALIAFERRO. That is not the purpose of the bill.

Senator SIMMONS. I would like to inquire whether there is anybody complaining who does not reside in the two States where they have inspection, Florida and Georgia, of the adulteration of resin?

Senator CLAPP. I am not prepared to answer that except upon information.

Senator TALIAFERRO. The question can be very readily answered.

Senator SIMMONS. I was addressing that question to the suggestion you made a little while ago with reference to the protection from these adulterations to persons residing outside the States providing these inspections, as in Georgia, and I am asking now whether anybody is complaining before this committee, anybody who resides outside the States, of the effect on their business of the adulterations of resin.

Senator CLAPP. There are no formal complaints before this subcommittee.

Senator BACON. Are there any informal complaints unofficially before this committee?

Senator TALIAFERRO. There are complaints that will be brought here if they are not already here.

Senator BACON. When they are brought, that will be time enough. They are not here yet.

Senator TALIAFERRO. I will state them now. I have resolutions from the Chamber of Commerce of Mobile which have been sent to me, heartily indorsing the bill.

Senator BACON. And that is because some of the Alabama product goes into Pensacola, I suppose.

Senator TALIAFERRO. And I will ask the Senator from Georgia whether he has not had indorsements of the bill from his State?

Senator BACON. Certainly I have. But that does not mean they are all for it by any means. So far as my State is concerned, I am prepared to say that I represent them in that particular. So far as this committee is concerned, my colleague and myself are here to represent what my State wishes, what the people of my State wish.

Senator TALIAFERRO. I asked the question thinking that you might represent them. I had no idea of attempting to represent them.

Senator BACON. Yes; I represent them, and whenever I fail to represent them I am willing to vacate my seat; and whenever I fail to represent them I have no doubt that they will require me to vacate my seat. I undertake to represent them in this instance with the full recognition of that responsibility upon me, and I suppose every other Senator realizes his responsibility in the same way.

Senator TALIAFERRO. That goes without saying.

Senator BACON. Yes; I shall never shirk my responsibility or be afraid to meet it.

Senator TALIAFERRO. I do not think anyone has suggested that you had or would.

Senator CLAPP. Proceed, gentlemen.

Senator BACON. I was upon the Georgia statute at the time I yielded to the interruption and answered the inquiry made by the Senator from Florida. I will ask the stenographer to read the last that I said before I was interrupted.

(The stenographer read as follows:)

"I will say that the section of the Code to which that refers is a section providing a penalty of a general nature for that class of offense, known as a misdemeanor offense, which is less than a felony, and one in which the penalty is fine and imprisonment."

Senator BACON (continuing). I want to say in that connection that Senator Crane, by way of illustration, is a manufacturer of paper. His paper goes into interstate commerce, and I suppose goes into every State in the United States.

There are various grades of paper, and Senator Crane as a manufacturer of paper knows that it is perfectly practicable for fraud to be committed in the manufacture of paper as well as any other manufacture, and that paper can be made to appear of one grade, when it is in fact of another grade. I judge that Senator Crane would seriously resent the idea of the enactment of a law by which there should be an inspection by the United States Government of the grades of paper, with a penitentiary penalty attached for any one grade being represented to be of any other grade except what it was, exactly. I might illustrate that in the weaving of cloth, and almost every other class of manufacture that could be suggested. There is opportunity for fraud in every class of manufacture as well as every class of products of other kinds.

To resume, now, about the Georgia statute——

Senator SIMMONS. That would be especially so in the matter of woolen goods.

Senator BACON. Yes, sir. There is a question of whether it is shoddy or pure wool or whether there is cotton mixed in with it. There is no limit to this thing. You open the door to this and acknowledge the principle once and there will be no end to it.

Senator CLAPP (addressing Senator Elkins, the chairman of the committee). This is a hearing on the turpentine bill and was set for 10 o'clock this morning, in hopes we would get through before the meeting for the full committee. Senator Bacon is addressing us in argument on the bill.

The CHAIRMAN. I would suggest that you proceed, then.

Senator CLAPP. Proceed, Senator Bacon.

Senator BACON. I hope Senator Elkins will stay here, as I would like to have him hear what I have to say. I wish he had been here to hear what I have already said with regard to this bill.

In this connection, Senator Simmons called my attention to a speech made by Senator-elect Root yesterday in Albany, which I had previously glanced over. I am glad he called my attention to the pertinency of it in connection with what I am now saying.

Now, we know, as Senator Root declares in this speech, he is a Nationalist. That is, he is not in favor of any of the ultra doctrines of state rights, and he believes in the full exercise of powers by the National Government. Before reading this I will say, Mr. Chairman [addressing Senator Elkins], that I was just calling attention to the fact that the passage of this law could only be based upon a reason which would apply to every other product in the United States, every agricultural and mineral and manufactured article. If we are going to take the position that every time it is charged that there is any fraud practiced in a product of any kind, by a misrepresentation of its grade, there will be no stopping place. There are grades in coal as well as in turpentine; there are grades in every other class of manufactures—in woolen goods and cotton and steel and everything else. If the principle is to be applied, there is no end to the practical monopoly by the United States Government of the entire internal affairs of the state.

I will read now what Senator-elect Root says on that subject in this speech he made yesterday, he being an apostle of the opposite school.

Senator TALIAFERRO. It would be interesting to have our people see that you are quoting Secretary Root on the question of state rights.

Senator BACON. Exactly. I am going to show that even a man who is as ultra as he is the other way recognizes that there is some proper limitation of the extent to which the Federal Government ought to go. [Reading from newspaper:]

"Mr. Root pointed out what he believed were two dangers due to the development of this country. One, he said, was the danger of the National Government breaking down in its effective machinery through the burdens that threaten to be cast upon it.

" 'On the other,' he continued, 'is the danger of breaking down the local self-government of the States. The tendency of vesting all powers in the central Government at Washington is to produce the

decadence of the powers of the States. Now, do not misunderstand me. I am a convinced and uncompromising nationalist of the school of Alexander Hamilton.

"I believe in the exercise of the executive, the legislative, and the judicial powers of the National Government to the full limit of the constitutional grants as those grants were construed by John Marshall and would be construed by him to-day. But I believe that the founders of the Republic builded more wisely than they knew when they set the limits between the exercise of that national power and the exercise of the local powers by the States. And while I believe in the exercise of the national power throughout the province of the constitutional grants of national power, I believe also in the preservation of state power within the limits of its constitutional authority."

I will just add that to what I have said in that connection. Of course, I could elaborate it if occasion required it.

Senator TALIAFERRO. I would like to go through the statement myself and see if there are not some other extracts that ought to be incorporated in the record.

Senator BACON. I wanted to show simply that one point; that even as extreme as Mr. Root is, he recognizes that we may absolutely break down the Federal Government in the burdens that are sought to be imposed upon it by invoking its power every time somebody is not satisfied with something that goes on in a State.

Senator TALIAFERRO. You want to accept what Mr. Root says when he agrees with you?

Mr. BACON. Yes.

Now I will continue with this law that we have in Georgia. The next section, section 4, provides "That any person who shall knowingly aid or assist in the manufacture or sale, consignment, or shipment of adulterated spirits of turpentine, or adulterated wood spirits of turpentine, which shall be placed or contained in a barrel not marked in the manner provided for by this act to indicate the character of its contents, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed in section 1039 of the code."

As you see, it does not limit it to the man who produces it, but any man who is engaged in selling it is made liable to the law. And in the next section it is made applicable to the man who ships it. That section (section 5) provides:

"That it shall be unlawful for any person knowingly to ship, consign, sell, or offer for sale as pure spirits of turpentine any wood spirits of turpentine or adulterated spirits of turpentine, or to ship, consign, sell or offer for sale as wood spirits of turpentine any adulterated wood spirits of turpentine."

And then it provides that anyone who shall violate the provisions of that section shall be guilty of a misdemeanor and punished as provided in the other sections.

It does not stop at the man who produces it or the man who sells it or the man who ships it, but extends also to the man who buys it. The next section provides:

"SECTION 6. *Be it further enacted by the authority aforesaid,* That any person who shall knowingly purchase or receive, or offer for sale or sell, any spirits of turpentine or wood spirits of turpentine

which has not been marked, branded, or stamped in accordance with this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed in section 1039 of the code."

Then the next section (section 7) goes on—had I better read it in full, or shall I state the substance of it?

Senator TALIAFERRO. I hope you will also give the committee the benefit of the law as to resin.

Senator BACON. It is all here. It is all in the same statute. It is a statute six pages long and goes through the details of the whole business. The next section of the statute reads: "That upon the passage and approval of this act the governor shall appoint a competent person, who shall be a citizen of the State of Georgia, to be a supervising inspector of naval stores for the State of Georgia, and who shall be skilled in the inspection of and familiar with the grades of naval stores, and competent to detect adulteration thereof, and shall hold his office for four years from and after his appointment."

Then it goes on to say that no person shall be appointed inspector who is connected with the business in any manner, shape, or form; and then that he shall have general supervision and direction of all the inspectors of naval stores and that it shall be his duty to see that they fairly and honestly perform all the duties imposed on them and in the manner provided by law. Then it goes on and says:

"The supervising inspector of naval stores shall also have supervision of all naval stores, plants, yards, warehouses, and it shall be his duty to see that no adulteration of naval stores is committed in the State, and to collect evidence of any adulteration which may come to his knowledge, or be reported to him, whenever the same may occur in the State of Georgia, and to prosecute or cause to be prosecuted all persons violating the laws of this State in regard to the inspection, marking, branding, or adulteration of naval stores."

The next section is in regard to bond, that the supervising inspector shall give a bond in the sum of \$5,000 for the faithful discharge of all the duties of his office, and that the said bond before being accepted shall be approved by the attorney-general and the governor.

Section 9 provides that the supervising inspector of naval stores shall receive as compensation one-fourth of a cent for each barrel of resin or spirits of turpentine which may be inspected under the laws of this State, and that for a basis of his fee a barrel when applied to spirits of turpentine shall be 50 gallons; that the term "Spirits of turpentine" shall include all spirits of turpentine mentioned in the act.

It also provides that a barrel when applied to resin shall be 280 pounds; that his fee shall be reckoned on that basis.

It provides further that the fee shall be paid equally by the buyer and seller of such naval stores.

I think the bill pending before this committee imposes a fee of 9 cents a barrel.

Senator TALIAFERRO. Nine cents a barrel on resin; yes, sir.

Senator BACON. Which is to be paid by the producer and not by the Government.

Senator TALIAFERRO. That is paid now, I will say for your information. I know you do not want to go astray about it.

Senator BACON. No, sir.



Senator TALIAFERRO. The bill provides now the exact rate that is paid throughout Georgia and Florida for inspection.

Senator BACON. By the producer?

Senator TALIAFERRO. Yes, sir.

Senator BACON. Well, I do not find that here.

Senator TALIAFERRO. You have read merely about the supervising inspector. I do not know what is in the law but I know what the practice is.

Senator BACON. I will read this over again. Here is the law. I will read to the committee the entire section (section 9) of the Georgia law. [Reading:]

"SEC. 9. Be it further enacted by the authority aforesaid, That the supervising inspector of naval stores shall receive as compensation for his services one-fourth of a cent for each barrel of rosin or spirits of turpentine which may be inspected under the laws of this State. For a basis of said fee a barrel when applied to spirits of turpentine shall be 50 gallons, and the term spirits of turpentine shall include all spirits of turpentine mentioned in this act. A barrel when applied to rosin shall be 280 pounds, and said fee shall be reckoned on this basis. Said fee shall be paid equally by the buyer and seller of such naval stores. In case of naval stores shipped in packages or receptacles other than barrels, his compensation shall be reckoned upon the basis of barrels or fractions thereof, in the same manner as is provided for the payment of fees of inspectors under like conditions. The supervising inspector of naval stores shall have the right to recover from any person or corporation the fees allowed him under this act in an action of assumpsit or any other appropriate proceedings of any court of this State having jurisdiction thereof.

That says one-fourth of 1 cent. I call attention to the fact that this law is so broad that it applies to the man that makes the turpentine, it applies to the man who buys it, and it also applies to the man who ships it, and it also applies to the man who sells it or offers to sell it. Now, it goes further. Section 10 provides:

"That any person who shall knowingly have in his possession any spirits of turpentine or wood spirits of turpentine for sale, consignment, or shipment which shall be in any manner adulterated without being marked on the outside of the barrel with the words and in the manner required by this act shall forfeit the same to the State of Georgia."

That is, if he has it for sale, even if he does not offer it to anybody, it is liable to forfeiture. [Reading:]

"Upon sworn information thereof, from any person, it shall be the duty of the solicitor-general of the judicial circuit in which such property subject to forfeiture under this section may be found to proceed forthwith to have the same forfeited and sold in the following manner."

Now, it does not look to me as if the whole world was being imposed on by these adulterations. That seems to me a very complete and perfect law, and if the law is not carried out it is not the fault of the law nor the fault of the inspectors, because according to the section which I have read, anyone has the right to come forward and make a complaint.

Senator TALIAFERRO. I think it proper that I should say that I meant no reflection on the inspectors of the State. I mean, I know no

law by which this stuff can be prevented from being adulterated after it becomes an article of interstate commerce. If there is any such law I would be glad if the Senator from Georgia, who is a great lawyer, would tell me where it can be found.

Senator BACON. Before I get through I will try to do so. I will try to show how it can be easily done by those who are interested in it, if they want to do it. I will read that again.

(Senator Bacon read aloud section 10 of the Georgia act.)

Senator BACON (continuing). That provides how he shall sell and what the proceedings shall be and what shall be done with the proceeds, and everything of that kind. Then in order to make the statute absolutely effective, it gives the supervising inspector of naval stores the right to go into any man's private establishment to inspect. That section is in these words:

"That the supervising inspector of naval stores, or any other inspector of naval stores, if he may have reason to believe that any spirits of turpentine or wood spirits of turpentine has been or is adulterated in any manner, shall have the right to enter the place where the same is stored or kept and to open any barrel or barrels in which same may be and to take therefrom a sufficient quantity, not exceeding a pint, from every barrel as a sample for analysis and inspection. Such sample shall be sealed by the supervising inspector or other inspector of naval stores, taking the same, who shall at the same time write, mark, or label the same in such manner as to indicate the time and place of taking the same, and the ownership of the barrel from which it is taken, as well as any other fact necessary to identify the sample so taken with the original."

And then it goes on with further details.

Then in the next section is this:

"Every person who produces, manufactures, consigns, sells, or keeps for sale, and every manufacturer, producer of, dealer, or factor in naval stores in the State of Georgia, shall post and keep posted a printed copy of this act in a public place at the still location, warehouse, yard, or other place where he shall manufacture, store, or keep naval stores."

And that includes resin as well as turpentine.

Senator FORAKER. Is that a state statute that you are reading?

Senator BACON. Yes, sir; it is our state law, and it is perfect in its provisions for the control and protection of the public against adulteration, beginning with the producer and extending to the man who buys it and the man who has it in his possession, or the man who sells it or offers to sell it.

Senator TALIAFERRO. I will explain to Senator Foraker, since he has just come in, that I have offered a bill here extending the provisions of the Georgia law over that product when it comes into interstate commerce.

Senator BACON. Well, you could not extend it over the property in Georgia any more than you can extend it now; and if the State has got a law and it is within its proper jurisdiction—well, I did not finish reading that last section; I will conclude that. This last section goes on to provide: "And it shall be the duty of the secretary of state to cause a sufficient number of copies of this act to be printed for public distribution for the purpose aforesaid. Any person who shall violate any of the provisions of this section shall be guilty of a



misdeemeanor, and upon conviction thereof shall be punished as prescribed in section 39 of the code."

That is the same as in the other sections.

Now, Florida has a law, too. I am not here for the purpose of—

Senator TALIAFERRO. Representing Florida?

Senator BACON. Representing Florida, or saying whether her act is good or bad. You can decide that for yourselves, and I have nothing to say about any act outside of Georgia.

Senator FORAKER. Is there much difference between the statutes of the two States?

Senator BACON. I don't know. I have never read the Florida statute, and I am not particularly interested in that statute. Of course, Florida can provide such inspection as she sees fit.

Senator ELKINS. Your contention is that the state statute of Georgia is sufficient to prevent any adulteration?

Senator BACON. Quite sufficient. It is as perfect a law to provide against adulteration as I think could be framed. I wish all of the Senators now present had been here when I said what I had to say.

There is another very serious reason on account of which I would be absolutely opposed to the bill. I am not just a little bit opposed to it; I am opposed to it to the last and utmost degree. I am not in favor of any law that is going to unnecessarily make federal penalties apply so that they may be imposed on our people in federal courts. We have got enough of them now. I am not going to have, so far as I can prevent it, the enactment of a law that is going to be limited in its application practically to two or three States, all of which, as I have said, before Senator Foraker came in, are represented by Senators and Representatives, a very large majority of which, I suppose at least four-fifths, if not nine-tenths of them, are opposed to the passage of this bill. I refer to the Senators and Representatives coming from the turpentine district.

Senator TALIAFERRO. I submit that the Senators and Representatives from the other States ought to be permitted to speak for themselves.

Senator BACON. They can contradict me if what I say is not so. I am simply stating what they have told me.

Senator TALIAFERRO. It is not a very pleasant thing for one Senator to have to contradict another.

Senator BACON. Do you suppose any of the Senators would hesitate to correct me if I misrepresent them in any respect?

Senator TALIAFERRO. If any of them were dumb, I would not object to your making the statement for them; but as they have tongues to speak for themselves, I think they ought to be allowed to speak for themselves.

Senator FORAKER. How many States are there that are interested in this turpentine and resin industry?

Senator BACON. There are North Carolina, South Carolina, Georgia, and Florida.

Senator TALIAFERRO. Alabama and Mississippi, Louisiana, and Texas.

Senator BACON. If the Senator would permit me to answer the question—

Senator TALIAFERRO. I thought you had finished.

Senator BACON. No; the Senator was a little too quick about that. Senator TALIAFERRO. I beg the Senator's pardon.

Senator BACON. I was going on to say that the principal States are Georgia and Florida. We manufacture a great deal more of it than all the other States combined. The Senator from Florida knows that; but North Carolina has an important product of it; Alabama has also, and Mississippi has also. I do not think Texas has much; I think the product in Texas is small. I do not know about Louisiana; I am not prepared to say whether Louisiana has much or little; but Louisiana has a very important interest in it, in the fact that the port of New Orleans deals largely in naval stores.

I would like to go on a little about the federal penalty matter. It is a serious thing to arm a federal judge with the power to jerk up people and send them to the penitentiary. In a State it is not so serious, because they are nearer to the people, and there are appellate courts easy of access, so that when injustice is done or a judge is tyrannical or despotic he can be controlled; but that is not so in the case of the federal courts. It is a fact that a federal judge is a terror to the people in that country. Men may be arrested by federal authority and carried a hundred miles from home to be tried. I have seen a heap of it. I have seen a condition of affairs in Georgia under which, over a large section of my State, women would hush their children from crying by calling the name of the federal judge, just as a nurse may say something about a bear to a child to make it hush crying. I have spoken of the condition of affairs that I think would result if this bill were enacted.

I do not propose to allow that condition of affairs to be brought about among my people if I can prevent it, and I will fight against any measure that I think would bring that condition of affairs about. I will strive against such a measure to the best of my ability and to the utmost extent of my power. It would be a serious thing for us. Here is this bill, section after section, providing that if such and such a thing is done the offender shall go to the penitentiary for perhaps as long a term as two years or fined to the extent of \$5,000. And I can imagine now in a large section of my State, the piney woods section, comprising nearly a third of the State of Georgia, hordes of people being carried to Savannah and to other localities in the State where the federal court is held and standing around the court-house in droves, hundreds of them, as I have seen in Atlanta. In Atlanta I have seen 300 men at a time brought up for a violation of the internal-revenue laws. I do not propose to have that sort of thing extended if I can help it.

Senator FORAKER. It would operate, of course, precisely the same way in Florida as in Georgia?

Senator BACON. Exactly the same; and if the Senator from Florida wants it in Florida, I have nothing to say.

Senator TALIAFERRO. I think you are unnecessarily enthusiastic and perhaps somewhat severe in dealing with that question as to the treatment of the people by the United States courts. There have been three trials under the Sherman antitrust law where convictions involved imprisonment, and the judge of your own district in each case imposed a fine, and the men are under indictment for a fourth trial for doing the things that this bill seeks to correct.

Senator BACON. Very well, then; if there is a law to cover it now, let it be enforced. If they are violating the antitrust law, let that be enforced; and there are courts to enforce it.

Senator TALIAFERRO. I was referring to the treatment of these people by the federal judges, to which you referred.

Senator BACON. There is no argument which can be advanced in support of this bill which, to my mind, is a good argument growing out of the statement that there is a trust in connection with this turpentine industry, because if there is a trust growing out of it, then there is a law to punish the members of the trust.

Senator TALIAFERRO. No; that is not the argument for the bill. The argument for the bill is that these evils exist in spite of your state law, your law that you bank on so much, and there is no remedy. If you can provide a remedy for those evils outside of the Federal Government, I am willing to agree to it.

Senator BACON. The remedy is the enforcement of that law. The law, as I have shown the committee, I think, is sufficient to cover the case.

Senator TALIAFERRO. You insist on that—that the Georgia law applies to interstate commerce?

Senator BACON. No, sir; I do not.

Senator TALIAFERRO. Then how is it an argument against this proposed bill, dealing with interstate commerce, to cite the provisions of the Georgia act?

Senator BACON. I mean to say that the Georgia law is sufficient to prevent adulteration, and if it is not adulterated before it goes into interstate commerce, of course that will cover the case.

Senator TALIAFERRO. That is to say, you contend that under the Georgia law it is safeguarded against adulteration before it enters into interstate commerce?

Senator BACON. Yes, sir; and the inspection is not limited to the producer of it, but extends to every man in whose possession it is. A man can not sell it; he can not offer it for sale. If that law is enforced, there can not be any adulterated turpentine or resin go into commerce, because there is not only protection against its production but a safeguard against its being sold or offered for sale or being bought.

The man that buys the adulterated article is a criminal; the man that sells it is a criminal; the man that offers it for sale is a criminal; the man that has it in a place for sale is a criminal. How can it get into interstate commerce under that condition of affairs? It would be an impossibility.

I have occupied more time than I expected to take, but I want to say another thing. That so far from this bill being in the interest of interstate commerce, it would be a barrier to interstate commerce; and I believe that if there was no state line between Florida and Jacksonville, or between Jacksonville and Savannah, there would not be any call for this bill. There might be some. The practical operation of this bill would be to throw every possible inducement, while I do not say that is the design of it, the practical operation of it would be to throw every possible inducement in the direction of the confinement of the shipments by the producer to a port in his own State, and to make it as inconvenient and as troublesome to him as possible if he wants to ship it out of his State to a port in another State.

Senator FORAKER. I am not a member of this subcommittee.

Senator CLAPP. We would be glad to have you participate in the proceedings.

Senator FORAKER. That is what I would like to see some one explain. Why should this operate to the prejudice of Georgia and to the advantage of Florida?

Senator BACON. That has been fully explained in the hearing that has taken place here. Those who are engaged in the business have gone into that.

Senator CLAPP. Those hearings are printed.

Senator BACON. I am not familiar with the details of the business, but these men who are familiar with the details have gone into that, as I understand it. I was not even permitted to be here at the hearing. I had to go to another committee——

Senator CLAPP. You mean not permitted by your engagements?

Senator BACON. Yes, sir. I mean I was not permitted to be here by reason of other engagements. Of course I was here when you began, but I had to go to the Committee on Foreign Relations and I have not had a chance to look over the hearing. But I have no doubt they have explained the manner in which this bill would constrain almost every man to ship his goods to a port in his own State rather than to ship them to a port in any other State. And that is one reason why you find one of the principal objectors to this bill is found in Senator Taliaferro's own State—the city of Pensacola. Pensacola draws a very large part of its naval stores from Alabama, and they realize the fact that if this bill were passed it would result in a condition of affairs where the naval-stores men for their convenience and to avoid an infinite amount of trouble would have to ship to Mobile and not to Pensacola.

Senator FORAKER. Is a large part of this product shipped now to Savannah?

Senator BACON. Yes, sir; and from Savannah it is shipped abroad. But as to the producers we are speaking of, the producers in Florida, many of them ship to Savannah; but under this law, if it should be passed, it would be a matter of such inconvenience that most of them would naturally ship to Jacksonville. That is a fact, and it is the same way with other places. There is some produced now in Georgia and shipped to Jacksonville. Under the operation of this bill, if it should become a law, almost all of that would have to be shipped to Florida. In the same way now, there are large naval stores. Most of them go to Pensacola, across the Florida line into Florida, and Pensacola is their port, and Pensacola is here opposing this bill because they know the effect of the bill, if it became a law, would be to throw such difficulties in the way that the Alabama product would almost all of it go to the port of Mobile instead of going to Pensacola.

Senator TALIAFERRO. May I ask who the Senator is representing now?

Senator BACON. I am not representing anybody. I am telling what Mr. Blount and his committee said.

Senator TALIAFERRO. I thought you were speaking of Pensacola.

Senator BACON. I did speak of Pensacola. Mr. Blount was from Pensacola. I was stating why it is that Pensacola opposed the bill,

and I am illustrating, in response to the inquiry of Senator Foraker, how it is that the bill will operate in that way, and I am just going through with the different ports. We started at Savannah, and then I spoke of Jacksonville and Pensacola, and with the Senator's permission I will go on to Mobile in the same way. There is a large product in Alabama that goes to New Orleans, and that would have to go to Mobile. It is the same way in Mississippi. The product of Mississippi that now goes to Mobile and to New Orleans would almost necessarily go to a port in Mississippi.

Senator FORAKER. I do not understand just why that is, why the product of each State would have to be shipped from a port in that State.

Senator BACON. Simply because the regulations are such that that would be the result. I can not go into the details, but you will find them in the hearing.

Senator TALIAFERRO. No; I do not think you will.

Senator BACON. Then, if they are not in there, we will see that they do go in.

I am going to look through the hearing. If the explanation is not there, the explanation of the manner in which that is the practical working or would be the practical working of the bill, if it should become a law, I am going to see that it gets before the committee before we get through; because that is the practical working of it, and without that practical working of it I do not think there would be very much interest in the bill, either for it or against it; except so far as the criminal features are concerned, I would be against it under any circumstances.

Senator TALIAFERRO. Do I understand you to say that if that bill clearly provided for the producer to ship to any port that he chose without any interference or restraint or restrictions, that you would not oppose the bill except so far as the criminal features are concerned?

Senator BACON. No; by no means. I said there would not be very much interest in it. That was my expression. I should oppose it on the ground that I do not think it is a proper subject-matter for legislation by Congress. In other words, that it should be a matter controlled by the States, a matter for legislation by the States. And if you are going to cross the line in this particular there is not a subject of agricultural product that could not be put under such restriction and controlled with penitentiary penalties and that sort of thing, and there is not a product that could not be put under such inspection, or a manufactured product that could not be dealt with in the same way.

Senator FORAKER. Is there any inspection of cotton by the Federal Government?

Senator BACON. No, sir; there is not. But we have this. You know there is an infinite amount of fraud perpetrated in the grading of cotton. Men have to stand upon their skill in buying cotton for manufacture to judge of its grade. There is a constant effort to put a lower grade off on the buyer as a higher grade. Are we going to have an inspection all over the country for that? They protect themselves by having experts who are able to tell what is the proper grade of cotton when they buy it. The manufacturer employs such experts for that purpose. And the manufacturer of paper who uses

resin protects himself by having experts who can tell the grade of the resin when he wants to buy it for his paper manufacturing.

And the same thing—and I tried to go through with it before you came in—would apply to every species of manufacture, every species of mineral product, and, as suggested by Senator Simmons, it peculiarly applies to the manufacturers of manufactured cloth of all kinds, and especially woolen cloths, as to what mixture they have of shoddy or cotton or hemp or anything else. It would apply to mineral products in the same way. In fact, there is no end to it if you once start this thing.

I will say this, that so far as cotton is concerned—and the evidence of the fact that there was an evil is found in the action of Congress a year or so ago, which action was taken in the interest of those interested in cotton. They put it in the power of the Secretary of Agriculture to classify cotton and establish standards of the various grades of cotton. You will find those standards down here in the Agricultural Department now. Those standards have been established. I was born and raised in the cotton country and I could not classify cotton to save my life, except that I can tell the difference between very dirty cotton and clean cotton and the difference between very long staple cotton and very short staple cotton. But I could not tell the various grades of cotton. As I say, we put in the agricultural appropriation bill last year, or the year before—I have forgotten just when it was—a provision under which the Secretary of Agriculture can employ experts who will classify cotton, and they have on exhibition there the various grades and classifications of cotton.

I presume he could send samples to any board of trade that wanted them, the various samples, so that they could be compared, and people could find out whether they were getting those standards, and if the Senator wants to pass a bill providing that the Secretary of Agriculture shall have standards of resin and turpentine, I have no objection to that. Then anybody could compare them and see whether or not any fraud is being practiced.

But is the Federal Government going to undertake to enter into every field of industry and protect the public in every industry? The old doctrine of caveat emptor, which of course is not directly in line, but that general principle, that the purchaser must look out for himself, protect himself against frauds, I think, can properly be referred to.

Senator FORAKER. Has Georgia ever found it necessary to pass any laws for the protection of purchasers of cotton?

Senator BACON. No, sir.

Senator FORAKER. It seems that the State has differentiated between the two?

Senator BACON. That may be. There may be more necessity for it in one case than in the other. But where there has been necessity for inspection the State has come to the scratch.

I want to say this, that so far as Senator Taliaferro's interest in this bill is concerned, of course, I have the greatest respect and regard for him. There is no Senator I would go further for to help pass a bill, but when it is directly opposed to the interests of my State, I will have to go against him.

(Adjourned.)







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